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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,647	11/07/2000	Kim Y. Kao	003115.P002XD2	9344

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EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/707,647	Applicant(s) KAO ET AL.	
	Examiner Tammara R Peyton	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 November 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-21 and 23-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-21 and 23-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Janku*, (US 4,902,881) and *Ozawa*, (US 5,265,153) and *Greene*, (US 4,312,035).

2. As per claims 14-16, 18, and 21, *Janku* teaches an apparatus for monitoring usages of an electrically powered device [Fig.1] wherein it would have been obvious that a circuit coupled to the device provides a power output for the device. Further, *Janku* teaches a controller to receive a user input [via card reader, 61, Fig.2], to process the user input by establishing communication with a remotely located device to request approval of a financial transaction, and generate control signals in response to receiving approval, the controller includes a database of power profiles of the device. [*Janku*, col. 2, lines 10-18, 47-col.3, lines 1-6] *Janku* teaches that without approval of a financial transaction (user's credit card read via card reader, 61) the electrically powered device will not activate, i.e. unlock thereby allowing the user access to functions provided by

the electrically powered device. The unlock process disclosed by *Janku* includes lowering the keyboard and starting up video monitor. Upon completion of the functions from the electrically powered device the total time usage is determined and charged to the user's given credit card. Therefore, it would have been obvious to one of ordinary skill that *Janku's* system keeps track of how long the electrically powered device was activated (power usage), thereby charging the user's credit card accordingly. *Janku* also teaches the use of a facsimile machine, however, *Janku* is silent in respect to suspending a charge for usage of the facsimile machine in the case of a halt/abnormal condition as measure by power usage.

3. *Ozawa* teaches a method for sending facsimiles over a network and charging for the service. Specifically, *Ozawa* teaches of calculating the hours/minutes the facsimile was in service and printing out a copy of the total charges to the user. *Ozawa's* system discloses an error management section that has the function of processing power supply interruptions to the facsimile – due to power failures. If such an error occurs the system will suspend the charges for that particular facsimile that was not completed during the transaction. Because *Ozawa* charges by the time usages, i.e. the hours/minutes the facsimile's power was in service, one of ordinary skill in the art would realize that *Ozawa's* database must keep track of when power was supplied to the facsimile and thereby charge accordingly.

4. Furthermore, *Greene* discloses such a system that monitors an output of an electrically powered device and even during a malfunction, comparing the output to a plurality of power usage profiles in order to determine the time usage for each electronically powered device. Specifically, *Greene* teaches of having power usage profiles for each peripheral connected to the system, wherein, each peripheral's power usage is compared to a controller's profile that monitors each peripheral's power usage. [*Greene*, col. 1, lines 14-26 and col. 5, lines 49-57]

5. It would have been obvious to one of ordinary skill to implement *Greene's* power usage method for an electrically powered device in *Ozawa*. Doing so would add and expand *Ozawa's* system by measuring the amount of time that the electrically powered device is supplied during a given transaction.

6. It would have been obvious to one ordinary skilled in the art to implement in *Janku's* system the *Ozawa-Greene* method as it relates the actual power usage of the electrically powered device. Doing so would add and expand the flexibility of *Janku's* system by suspending a charge due to halt/abnormal condition.

7. As per claims 13 and 17, *Janku's* system obvious teaches a switching device (relay) coupled between the electrically powered device and a power source in order to provide power to the device when the approval of a financial transaction (user's credit

card read via card reader, 61) is determined thereby unlocking the electrically powered device and allowing the user access.

8. As per claims 19 and 20, *Janku* nor *Ozawa* teach wherein the electrically powered device is a copier or a laser printer. However, it would have been obvious to one ordinary skill at the time the invention was made that the electrically powered device could be a host of other devices and not depart from the scope of the invention.

9. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ozawa*, (US 5,265,153).

10. As per claims 23 and 24, *Ozawa* teaches a method comprising:

- monitoring an output of an electrically powered device; (facsimile terminal, 7, Fig.1)
- comparing the output to a database of operating profiles (1, 2 and 6, Fig.1) for the electrically powered device to detect a first condition (64, Fig.3) and to adjust billing charges when the electrically powered device is in the first condition [Fig.4], the database of operating profiles includes regular operating profiles and abnormal operating profiles, each abnormal operating profile to denote an abnormal condition. (col. 5, lines 31-col. 6, lines 1-4, see paragraph 19)

11. Claims 25-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ozawa*, (US 5,265,153) and *Greene*, (US 4,312,035).

12. As per claims 25, 26, 29 and 30, *Ozawa* teaches a software module embodied for execution by a controller, the software module comprising:

- software to monitor an output of an electrically powered device; [facsimile terminal, 7, Fig.1]
- comparing the output to a database of operating profiles [2 and 6, Fig.1] for the electrically powered device to detect a first condition [64, Fig.3] and to adjust billing charges when the electrically powered device is in the first condition [Fig.4], the database of operating profiles includes regular operating profiles and abnormal operating profiles, each to denote an abnormal condition.

13. *Ozawa* teaches a method for sending facsimiles over a network and charging for the service. Specifically, *Ozawa* teaches of calculating the hours/minutes the facsimile was in service and printing out a copy of the total charges to the user. *Ozawa's* system discloses an error management section that has the function of processing power supply interruptions – due to power failures - and recording-paper exhaustion. If one of these errors occurs the system will adjust/nullify the charges for that particular facsimile that was not completed during the transaction. Because *Ozawa* charges by the time usages, i.e. the hours/minutes the facsimile's power was in service, one of ordinary skill

in the art would realize that *Ozawa's* database must keep track when power was supplied/utilized to/by the facsimile and thereby charge the user accordingly.

14. Nonetheless, *Greene* discloses such a system that monitors an output of an electrically powered device and even during a malfunction, comparing the output to a plurality of power usage profiles in order to determine the time usage for each electronically powered device. Specifically, *Greene* teaches of having power usage profiles for each peripheral connected to the system, wherein, each peripheral's power usage is compared to a controller's profile that monitors each peripheral's power usage. [*Greene*, col. 1, lines 14-26 and col. 5, lines 49-57]

15. It would have been obvious to one of ordinary skill to implement *Greene's* power usage method for an electrically powered device in *Ozawa*. Doing so would add and expand *Ozawa's* system by measuring the amount of time that the electrically powered device is supplied during a given transaction.

16. As per claims 27, 28, 31-34, and 37-39, *Ozawa* teaches an abnormal condition being a recording-paper exhaustion, which could mean a lack of paper in the facsimile. However, one ordinary skilled in the art would readily recognize that it is not out of *Ozawa's* scope of the invention that an abnormal condition may include a paper jam. Either error would trigger the error management section to adjust/nullify the facsimile charge. Furthermore, it would have been obvious to one of ordinary skill in the art that

Greene teaches wherein a function of the power usage profile includes amperage and time.

17. As per claims 35, 36, 40, *Ozawa-Greene* teach wherein the electrically powered device is a facsimile and not a printer or appliance. Nonetheless, it would have been obvious to one ordinary skill at the time the invention was made that the electrically powered device could be a host of other devices and not depart from the scope of the invention.

Response to Applicant's Arguments

18. As per claim 13 and 14, Applicant argues that *Janku* is devoid of any support for an analog-to-digital converter as well as capabilities of the controller for receiving a digital form of the power usage. Examiner agrees that *Janku* does not specifically teach of an analog-to-digital converter. However, it would have been obvious that power usage is an analog measure and computer processing is performed digital form. Therefore, because *Janku* charges the user based on the how long the electrically powered device was activated (power usage), *Janku's* system must use an A to D converter to convert the analog power usage to a digital value to keep track of how long it was activated and calculate the time usage in order to charge the user accordingly. Yet, *Janku* does not compare the power output to power profiles, in order to suspending

a charge for usage if the system indicates a halt condition. The combination of *Ozawa-Greene* is used as explained below.

19. As per claim 23 and 24, Applicant stated that *Ozawa* does not disclose a database of operating profiles that compares the output of an electrically powered device, wherein the database of operating profiles includes regular operating profiles and abnormal operating profiles. Examiner disagrees with Applicant based on the new grounds of rejections. *Ozawa* teaches a main control processor (MCP) that with the information received from a voice response unit (VRU) 3 and a terminal adaptor (ADP) 6, to calculate and totalize charges. (col. 5, lines 7-22) Specifically, the VRU serves to recognize and notify information of various instructions from a facsimile terminal to the MCP. The VRU includes logic to recognize a regular operating profile via a voice/PB tone processor, 38 and voice response ROM, 37. (col. 4, line 1-22) *Ozawa* teaches of the VRU recognizing an abnormal operation. (col. 4, lines 23-34) Further, *Ozawa* teaches of using a terminal adaptor (ADP) implemented in a facsimile,7, that includes regular and abnormal operating profiles. During regular operating profiles the ADP receives instructions from the MCP via the VRU to print out the charges incur from a facsimile transmission. During abnormal operations the ADP utilizes controller, 61, to control a communication section, 62, charge management section, 63, error management section, 64, and record section, 65. (col. 5, lines 47-col. 6, lines 1-4). Therefore, Examiner believes that *Ozawa* teaches memories with operating profiles that includes regular operating profiles and abnormal operating profiles, as claimed. Further,

Applicant argued that *Ozawa* fails to describe each and every limitation of the various operating profiles that were discussed throughout the application, however, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

20. As per claim 29 and 30, Applicant argues that *Ozawa,* in combination with *Greene,* fails to describe or even suggest that *Ozawa-Greene* teaches of monitoring and comparing an output of an electrically powered device based on the use of power supplied to the facsimile. It would have been obvious to one of ordinary skill at the time the invention was made that as claimed, the MCP, VRU, and ADP implements software instructions to monitor and compares "outputs" from the facsimile with operating profiles that includes regular operating profiles and abnormal operating profiles. The Office is taking the position that *Ozawa* teaches of keeping track when power is supplied to facsimile, in order to adjust the billing charges when the facsimile is in a first condition. *Greene's* system teaches the method of utilizing metering means for measuring the amount of time power was supplied, and compares any chances to the power supply of each peripheral connected to the system to a controller's set profile - regarding the regulated power usage. Furthermore, Applicant argued that *Greene* neither describes nor suggest such comparison software. The Office is taking the position that *Greene* controller would obviously execute instruction software to run the controller. It is well known in the art that hardware and software are logically equivalent, because any

instruction executed by hardware can also be simulated in software. (See attached prior art Andrew S. Tanenbaum) It would have been obvious to one of ordinary skill that by implementing *Greene's* monitoring and comparing metering means, which enables time and measurement usage of power supplied for connected peripheral, including changes as a result of malfunctions or sudden imbalances (*Greene*, col. 5, lines 52-58), would allow *Ozawa* to further track when changes to the power to each facsimile occurs, in order to adjust the billing charges accordingly when in a first condition.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 8:00 - 4:30 from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal communications intended for entry should be sent to:

(703) 746-7238, After Final (703)746-7239

or, for informal or draft communications, to:

(703) 746-7240 (please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Tammara Peyton

January 29, 2003

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100